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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,695	07/21/2003	David S. Benco	LUTZ 2 00217	6505
7590 Richard J. Minnich Fay, Sharpe, Fagan, Minnich & McKee, LLP Seventh Floor 1100 Superior Avenue Cleveland, OH 44114			EXAMINER PHAN, HUY Q	ART UNIT 2617
SHORTENED STATUTORY PERIOD OF RESPONSE 3 MONTHS		MAIL DATE 01/05/2007	DELIVERY MODE PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)
	10/623,695	BENCO ET AL.
	Examiner Huy Q. Phan	Art Unit 2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 27 October 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 2-17 and 19-21 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 2-17, 19 and 21 is/are allowed.
- 6) Claim(s) 20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application
- 6) Other: _____

DETAILED ACTION

Response to Amendment

1. This Office Action is in response to Amendment filed on date: 10/27/2006.
Claims 2-17 and 19-21 are still pending.

Response to Arguments

2. a) Applicant's arguments, with regard to the claim 20, have been considered but are moot in view of the new ground(s) of rejection.

Applicant stated that "Claims 2, 19 and 20 were objected to for depending from rejected claims. However, claims 2, 19 and 20 have been placed in independent form including all of the subject matter of their respective base claims and any intervening claims. Accordingly, claims 2, 19 and 20 are allowable." The examiner found that the amended claim 20 has been placed in independent form but not including the intervening claim 19. Thus, the amended claim 19 is still rejected (see the rejection below).

- b) In response to applicant's argument, with regard to the claim 18, that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed.

Cir. 1992). In this case, the examiner asserted that the motivation to combine the references was to "provision a wireless component without time-consuming interaction with an employee of the service provider, allows the service provider to generate a user-friendly interface to inform subscribers of services and their cost, and reduces service provider labor costs associated with provisioning a wireless component" (see Gentry's specification, col. 2).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art (herein after AAPA) in view of Gentry (US-6,453,162 previously cited).

Regarding claim 20, AAPA discloses a method for processing a call from a mobile station in a wireless network when the call is associated with a subscriber having a normal service plan with a wireless service provider associated with the wireless network (see the instant specification, paragraphs [0002]-[0003]), the method including the steps: a) receiving the call from the mobile station ([0030]). But, AAPA does not particularly show the step of: b) determining if the subscriber has a temporary service plan that is in effect with the wireless service provider; and c) if a temporary service plan

Art Unit: 2617

is in effect, continuing to process the call and determining charges for the call according to the temporary service plan; and d) if a temporary service plan has not recently expired, continuing to process the call and determining charges for the call according to the normal service plan. However, Gentry teaches the step of: b) determining if the subscriber has a temporary service plan (described as "The subscriber can enter the dates during which he will be in the remote location, provide billing information, such as a credit card number, and provide whatever additional information the service provider needs to provide the subscriber with a local number during the specified period of time", see col. 6) that is in effect with the wireless service provider (col. 7, lines 14-33, for details see cols. 5-8); and c) if a temporary service plan is in effect, continuing to process the call (col. 7, lines 14-33, for details see cols. 5-8) and determining charges for the call according to the temporary service plan (col. 6, lines 32-55); and d) if a temporary service plan has not recently expired, continuing to process the call and determining charges for the call according to the normal service plan (col. 6, lines 60-65); therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Gentry as taught by AAPA in order to "provision a wireless component without time-consuming interaction with an employee of the service provider, allows the service provider to generate a user-friendly interface to inform subscribers of services and their cost, and reduces service provider labor costs associated with provisioning a wireless component" (see Gentry's specification, col. 2).

Reasons for Allowance

2. Claims 2-17, 19 and 21 are allowed.

The following is a statement of reason for the indication of allowance:

Claims 2-17, 19 and 21 are allowed with the same reasons set forth in the Office Action mailed 09/20/2006 (page 8).

3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Art Unit: 2617

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy Q Phan whose telephone number is 571-272-7924. The examiner can normally be reached on 8AM-6PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Huy Phan


GEORGE ENG
SUPERVISORY PATENT EXAMINER

Examiner: Phan, Huy Q.

AU: 2617

Date: 12/26/2006